

210 WEST 42ND STREET
NEW YORK, NEW YORK 10022-7681

U.S. DISTRICT JUDGE

S.D.N.Y.
KENNETH R. UMANS
(1944-1998)

FRANK J. COLUCCI, P.C.
COURTNEY WILSON MONAHAN, P.C.
W. BRANT MOSSOP, P.C.
GREGORY J. COLUCCI, P.C.
RICHARD P. JACOBSON, P.C.
SUSAN B. JACOBSON
DAVID M. DAHAN
KATHLEEN M. MCGANN
GEORGANN M. CALLAGHAN
ANDREA PELAEZ
MICHAEL J. PAMPALONE, III

TELEPHONE (212) 935-5700
FACSIMILE (212) 935-5728
email@colucci-umans.com
www.colucci-umans.com

WESTCHESTER OFFICE

670 WHITE PLAINS ROAD
SCARSDALE, NEW YORK 10583-5025
TELEPHONE (914) 472-1500
FACSIMILE (914) 472-1551
scarsdale@colucci-umans.com

OF COUNSEL
NOTARO & MICHALOS P.C.

May 29, 2008

**VIA FACSIMILE
(212) 805-7901**

The Honorable Harold Baer, III
United States District Judge
United States District Court
Daniel Patrick Moynihan United States Courthouse
Southern District of New York
500 Pearl Street, Room 2230
New York, New York 10007

USDS SDNY
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Re: Discovision Associates v. Toshiba Corporation
08 CV 3693 (HB) (S.D.N.Y.)
Our File D680-002

Dear Judge Baer:

We represent the defendant, Toshiba Corporation ("Toshiba"), in the above-captioned civil action. Yesterday, May 28, 2008, our firm was served by hand with plaintiff, Discovision Associates' ("Discovision's") motion for partial summary judgment, a supporting memorandum, a supporting declaration and a Rule 56.1 statement of facts.

As Your Honor is aware, the parties have stipulated to allow Toshiba until June 4, 2008, to answer, move or otherwise plead in response to Discovision's complaint. We write to inform the Court that Toshiba intends to file a motion to dismiss this case for lack of proper service or, alternatively, to quash plaintiff's proof of service on June 4th.

In light of these facts, and in order to secure the orderly and efficient resolution of each parties' claims, we respectfully request that the Court issue a motion briefing schedule that allows Toshiba's motion to dismiss or quash for improper service to be resolved before it is required to oppose Discovision's motion for partial summary judgment.

The Honorable Harold Baer, III

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May 29, 2008

By virtue of a telephone conference that took place between counsel on May 16, 2008, Discovision is fully aware of Toshiba's position regarding improper service. Consequently, Discovision's motion for partial summary judgment appears to be intended to foreclose Toshiba from having an opportunity to file its motion to dismiss or quash for improper service.

Respectfully submitted,

Frank J. Colucci
Frank J. Colucci

FJC\MP:lt

cc: James B. Kobak, Esq. (via Facsimile, 212-422-4726)
Hughes Hubbard & Reed LLP
One Battery Park Plaza
New York, New York 10004
Attorneys for Plaintiff

Paul Stewart, Esq. (via Facsimile, 949-760-9502)
Irfan Lateef, Esq. (via Facsimile, 949-760-9502)
Knobbe Martens Olson & Bear LLP
2040 Main Street, 14th Floor
Irvine, California 92614-3641
Attorneys for Defendant

I take off the service
problem out of the way
a fully briefed motion is to
be in chambers by the 20th of June
the parties to resolve the dispute
matter by June 30, 08 + I will
endeavor w/ a few days. if
there is good reason I will
go on following receipt of the
fully briefed motion on the 30th

on to resolve the matter the PTC
Date: 5/29/08
SO ORDERED.

Endorsement:

Let's get the service problem out of the way - a fully briefed motion is to be in Chambers by the 20th of June, the partial summary judgment motions by June 30, 2008 and I will endeavor to resolve the service problem within a few days. If there is good service I will go on following receipt of the fully briefed motion on the 30th to resolve that motion. The pre-trial conference will be held on Monday, June 2 at 2 P.M.